

FILED

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[Signature]
RICHARD W. WIEKING
 CLERK, U.S. DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

1 ELIAS STAVRINIDES
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8 **UNITED STATES DISTRICT COURT** *KAW*
 9 **NORTHERN DISTRICT OF CALIFORNIA**

10 ELIAS STAVRINIDES,
 11 Plaintiff,
 12 vs.
 13 PACIFIC GAS AND ELECTRIC
 COMPANY;
 14 Defendant.

) CASE NO: **CV 15 3118**
)
) VERIFIED COMPLAINT FOR DAMAGES
)
) VIOLATION OF 15 USC 1692 *et seq.*
) FDCPA;
) VIOLATION OF 47 USC 227 *et seq.* TCPA;
) VIOLATION OF CALIFORNIA
) ROSENTHAL FAIR DEBT COLLECTION
) PRACTICES ACT CC 1788 *et seq.*
)
) DEMAND FOR TRIAL BY JURY
)
)

19 **COMPLAINT**

20 Plaintiff, ELIAS STAVRINIDES, individually hereby sues Defendant PACIFIC GAS
 21 AND ELECTRIC COMPANY, for violations of the FDCPA 15 USC §1692, violations of the
 22 TCPA 47 USC §227, and the California Rosenthal Fair Debt Collection Practices Act Civil Code
 23 1788.

25 **PRELIMINARY STATEMENT**

26 1. This is an action for damages and injunctive relief brought by Plaintiff against Defendant
 27 for violations of the Telephone Consumer Protection Act (TCPA) 47 USC §227(b)(1)(A),

1 Telephone Consumer Protection Act (TCPA) 47 USC §227(b)(1)(A)(iii), Fair Debt
2 Collection Practices Act (FDCPA) 15 U.S.C. §1692c(a)(1), Fair Debt Collection
3 Practices Act (FDCPA) 15 U.S.C. §1692d(5) and Fair Debt Collection Practices Act
4 (FDCPA) 15 U.S.C. §1692d(6), Fair Debt Collection Practices Act (FDCPA) 15 U.S.C.
5 §1692e(10), the California Rosenthal Fair Debt Collection Practices Act (CFDCPA).
6

7 2. Plaintiff contends that the Defendant has violated such laws by repeatedly harassing
8 Plaintiff in attempts to collect alleged but nonexistent debt.

9 **JURISDICTION AND VENUE**

10 3. Jurisdiction of this Court arises under 47 U.S.C. §227(b)(3), 15 U.S.C. §1692k(d),
11 California Stat. § 1788, and supplemental jurisdiction exists for the state law claims
12 pursuant to 28 U.S.C. §1367, Jurisdiction arises under Cal. Civ. Pro. §410.10. Defendant
13 conducts business in the state of California and therefore, personal jurisdiction is
14 established.
15
16 4. Venue is proper pursuant to 28 U.S.C. §1331b and Cal. Civ. Pro. §395(a). Venue in this
17 District is proper in that the Plaintiff resides here, the Defendants transact business here,
18 and the conduct complained of occurred here.
19

20 **PARTIES**

21 5. Plaintiff, ELIAS STAVRINIDES, ("STAVRINIDES") is a natural person and is a
22 resident of Sonoma County, California.
23
24 6. Upon information and belief Defendant, PACIFIC GAS AND ELECTRIC COMPANY
25 ("PGE") is a California corporation, authorized to do business in California, with
26 Corporate Headquarters at 77 Beale Street, 32nd Floor, San Francisco, CA 94105 Agent
27 For Service of Process, Linda Y.H. Cheng on 24th Floor.
28

7. Defendant PGE is a debt collector, and is attempting to collect a debt, subject to the Fair Debt Collection Practices Act, 15 U.S.C. §1692 & seq. ("FDCPA").
8. Defendant PGE is an entity which collects debts, bringing it within the ambit of the California Rosenthal Fair Debt Collection Practices Act Civil Code 1788 ("CFDCPA").

FACTUAL ALLEGATIONS

9. Plaintiff has no prior or present established relationship with the Defendant PGE.
10. Defendant PGE has continued to send statements to Plaintiff regarding some alleged and disputed debt.
11. Plaintiff has disputed the debt, and has sent a request for verification of debt on October 10, 2013 Certified Mail 7012 3050 0000 7317 5568.
12. Defendant PGE has never validated or verified the debt, but continues to attempt to collect this disputed debt.
13. Plaintiff has no contractual obligation to pay Defendant PGE.
14. Plaintiff has never given any Defendant express permission to call Plaintiff's cellular phone.
15. On April 2, 2015 at 08:23 a.m. Defendant PGE called Plaintiff's cell phone 707-483-7689 from phone number 800-743-5000 using automatic telephone dialing system capabilities or artificial or prerecorded voices on Plaintiffs cellular phone.
16. On April 2, 2015 at 08:23 a.m. Defendant PGE called Plaintiff's cellular phone 707-483-7689 from phone number 800-743-5000 with no prior permission given by Plaintiff.
17. On April 2, 2015 at 08:23 a.m. Defendant PGE asserted a right which it lacks, to wit, the right to enforce a debt.

1 18. On April 2, 2015 at 08:23 a.m. Defendant PGE failed to identify that they were debt
2 collectors trying to collect a debt.

3 19. On April 20, 2015 Plaintiff sent Defendant PGE a NOTICE OF INTENTION TO
4 COMMENCE ACTION by Certified Mail Receipt #7014 1820 0000 1454 3768.

5 **COUNT I**

6 **VIOLATIONS OF THE TELEPHONE COMMUNICATIONS ACT 47 U.S.C.
7 §227(b)(1)(A) BY DEFENDANT PACIFIC GAS AND ELECTRIC COMPANY.**

8 20. Plaintiff alleges and incorporates the information in all previous paragraphs.

9 21. Defendant PGE have demonstrated willful or knowing non-compliance with 47 U.S.C.
10 §227(b)(1)(A) by using an automatic telephone dialing system to call the Plaintiff's
11 number.

12 22. 47 U.S.C. §227(b)(1)(A) states in part;

13 (b) RESTRICTIONS ON THE USE OF AUTOMATED TELEPHONE EQUIPMENT.—

14 (1) PROHIBITIONS.—It shall be unlawful for any person within the United States, or any
15 person outside the United States if the recipient is within the United States—

16 (A) to make any call (other than a call made for emergency purposes or made with the prior
17 express consent of the called party) using any automatic telephone dialing system or an
18 artificial or prerecorded voice—

19 23. Defendant PGE has called the Plaintiff's phone using an automatic dialing system.

20 24. Defendant PGE has demonstrated willful or knowing non-compliance with 47 U.S.C.

21 §227(b)(1)(A) by calling the Plaintiff's number and using an automatic dialing system.

22 The call is subject to treble damages pursuant to 47 U.S.C. §227(b)(3) as it was
23 intentional.

24 25. Plaintiff spoke with PGE and PGE assured Plaintiff that the calls and collection attempts
25 would stop. PGE refuses to cease communication and continues to violate 47 U.S.C. An

unintentional call carries a damage amount of \$500; an intentional call carries a damage amount of \$1,500 per violation.

26. Plaintiff and PGE do not have an established business relationship within the meaning of
47 U.S.C. §227. Plaintiff is entitled to damages of \$1500 per violation pursuant to 47
U.S.C. §227(b)(3)(B).

WHEREFORE, Plaintiff demands judgment for damages against PGE for actual, statutory, and punitive damages, attorney's fees and costs, pursuant to 47 U.S.C §227.

COUNT II

VII
**VIOLATIONS OF THE TELEPHONE COMMUNICATIONS ACT 47 U.S.C.
§227(b)(1)(A)(iii) BY DEFENDANT PACIFIC GAS AND ELECTRIC COMPANY.**

27. Plaintiff alleges and incorporates the information in all previous paragraphs.

28. Defendant PGE has called the Plaintiffs cellular phone contrary to 47 U.S.C.

§227(b)(1)(A)(iii).

²⁹ 47 U.S.C. §227(b)(1)(A)(iii) states in part:

(1) PROHIBITIONS.—It shall be unlawful for any person within the United States, or any person outside the United States if the recipient is within the United States—

(A) to make any call (other than a call made for emergency purposes or made with the prior express consent of the called party) using any automatic telephone dialing system or an artificial or prerecorded voice—

(iii) to any telephone number assigned to a paging service, cellular telephone service, specialized mobile radio service, or other radio common carrier service, or any service for which the called party is charged for the call;

30. Defendant PGE has demonstrated willful or knowing non-compliance with 47 U.S.C.

§227(b)(1)(A)(iii) by calling the Plaintiff's number, which is assigned to a cellular

telephone service. The Plaintiff has never given PGE permission to call Plaintiffs cellular phone. The call is subject to treble damages pursuant to 47 U.S.C. §227(b)(3) as it was intentional.

1 31. Plaintiff spoke with PGE and PGE assured Plaintiff that the collection attempt and calls
2 would stop. PGE refuses to cease communication and continues to violate 47 U.S.C. An
3 unintentional call carries a damage amount of \$500; an intentional call carries a damage
4 amount of \$1,500 per violation.

5 32. Plaintiff and PGE do not have an established business relationship within the meaning of
6 47 U.S.C. §227. Plaintiff is entitled to damages of \$1500 per violation pursuant to 47
7 U.S.C. §227(b)(3)(B).

9 **WHEREFORE**, Plaintiff demands judgment for damages against PGE for actual, statutory, and
10 punitive damages, attorney's fees and costs, pursuant to 47 U.S.C §227.

11

COUNT III
VIOLATION OF FAIR DEBT COLLECTION PRACTICES ACT (FDCPA), 15 U.S.C.
§1692c(a)(1) BY DEFENDANT PACIFIC GAS AND ELECTRIC COMPANY.

14 33. Plaintiff alleges and incorporates the information in all previous paragraphs.

15 34. Defendant PGE placed a telephone call to the Plaintiff's cellular telephone.

16 35. Defendant knew or should have known that the phone calls made were inconvenient to
17 the consumer.

19 36. Defendant PGE violated 15 U.S.C. §1692c(a)(1) by calling Plaintiff's cellular phone on
20 dates and times listed above with no prior permission given by Plaintiff.

21 37. Such communication is prohibited by 15 U.S.C. §1692c(a)(1).

22 38. 15 U.S.C. §1692c(a)(1) states in part;

24 (a) **COMMUNICATION WITH THE CONSUMER GENERALLY.** Without the prior
25 consent of the consumer given directly to the debt collector or the express permission of a
26 court of competent jurisdiction, a debt collector may not communicate with a consumer in
27 connection with the collection of any debt—

28 (1) at any unusual time or place or a time or place known or which should be known to be
inconvenient to the consumer. In the absence of knowledge of circumstances to the contrary,
a debt collector shall assume that the convenient time for communicating with a consumer is

1 after 8 o'clock antimeridian and before 9 o'clock postmeridian, local time at the consumer's
2 location;

3 **WHEREFORE**, Plaintiff demands judgment for damages against PGE for actual, statutory, and
4 punitive damages, attorney's fees and costs, pursuant to 15 U.S.C. §1692.

5 **COUNT IV**

6 **VIOLATION OF FAIR DEBT COLLECTION PRACTICES ACT (FDCPA), 15 U.S.C.
§1692d(5) BY DEFENDANT PACIFIC GAS AND ELECTRIC COMPANY.**

7 39. Plaintiff alleges and incorporates the information in all previous paragraphs.

8 40. Defendant PGE violated 15 U.S.C. §1692d(5) by calling the Plaintiff causing the

9 Plaintiff's phone to ring repeatedly and/or continuously with the intent to annoy, abuse, or
10 harass the Plaintiff with no prior permission given by Plaintiff.

11 41. This intentional and repeated calling by PGE has caused the Plaintiff undue stress,
12 relationship issues, nervousness and embarrassment.

13 42. 15 U.S.C. §1692d(5) states in part;

14 A debt collector may not engage in any conduct the natural consequence of which is to
15 harass, oppress, or abuse any person in connection with the collection of a debt. Without
16 limiting the general application of the foregoing, the following conduct is a violation of this
17 section:

18 (5) Causing a telephone to ring or engaging any person in telephone conversation
19 repeatedly or continuously with intent to annoy, abuse, or harass any person at the called
20 number.

21 **WHEREFORE**, Plaintiff demands judgment for damages against PGE for actual, statutory, and
22 punitive damages, attorney's fees and costs, pursuant to 15 U.S.C. §1692.

23 **COUNT V**

24 **VIOLATION OF FAIR DEBT COLLECTION PRACTICES ACT (FDCPA), 15 U.S.C.
§1692d(6) BY DEFENDANT PACIFIC GAS AND ELECTRIC COMPANY.**

25 43. Plaintiff alleges and incorporates the information in all previous paragraphs.

1 44. Defendant PGE violated 15 U.S.C. §1692d(6) by calling the Plaintiff without meaningful
2 disclosure of the caller's identity and with no prior permission given by Plaintiff.

3 45. 15 U.S.C. §1692d(6) states in part;

4 A debt collector may not engage in any conduct the natural consequence of which is to
5 harass, oppress, or abuse any person in connection with the collection of a debt. Without
6 limiting the general application of the foregoing, the following conduct is a violation of this
7 section:

8 (6) The placement of telephone calls without meaningful disclosure of the caller's identity.

9 **WHEREFORE**, Plaintiff demands judgment for damages against PGE for actual, statutory, and
10 punitive damages, attorney's fees and costs, pursuant to 15 U.S.C. §1692.

11 **COUNT VI**

12 **VIOLATION OF FAIR DEBT COLLECTION PRACTICES ACT (FDCPA), 15 U.S.C.
§1692e(10) BY DEFENDANT PACIFIC GAS AND ELECTRIC COMPANY.**

13 46. Plaintiff alleges and incorporates the information in all previous paragraphs.

14 47. Defendants PGE violated 15 U.S.C. §1692e(10) by the use of a false representation or
15 deceptive means to collect or attempt to collect a debt or to obtain information
16 concerning a consumer.

17 48. 15 U.S.C. §1692e(10) states in part;

18 A debt collector may not use any false, deceptive, or misleading representation or means in
19 connection with the collection of any debt. Without limiting the general application of the
20 foregoing, the following conduct is a violation of this section:

21 (10) The use of any false representation or deceptive means to collect or attempt to collect
22 any debt or to obtain information concerning a consumer.

23 **WHEREFORE**, Plaintiff demands judgment for damages against PGE for actual, statutory, and
24 punitive damages, attorney's fees and costs, pursuant to 15 U.S.C. §1692.

25 **COUNT VII**

26 **VIOLATION OF VIOLATION OF CALIFORNIA ROSENTHAL FAIR DEBT
COLLECTION PRACTICES ACT CC 1788 *et seq.* BY DEFENDANT PACIFIC GAS
AND ELECTRIC COMPANY.**

1 49. Plaintiff alleges and incorporates the information in all previous paragraphs.

2 50. Plaintiff is a consumer within the meaning of 15 USC 1692 *et seq.*

3 51. Defendant is seeking to collect a consumer debt from Plaintiff as defined by Cal. Civ.

4 §1788(f).

5 52. The account in question is a consumer credit transaction ad defined by Cal. Civ.

6 §17882(e) as Plaintiff has allegedly received property, services or money from the

7 Defendant on an extension of credit and such property, services or money was used

8 primarily for personal, family or household purposes.

9 53. Defendant violated §1788.11(d) of the CFDCPA by placing collection a call to Plaintiff

10 repeatedly and continuously so as to annoy Plaintiff.

11 54. Defendant violated §1788.11(e) of the CFDCPA by placing a collection call to Plaintiff

12 as to be unreasonable and to constitute a harassment to Plaintiff under the circumstances.

13 55. Defendant violated the §1788.17 of the CFDCPA by continuously failing to comply with

14 the statutory regulations contained with the FDCPA 15 USC §1692 *et seq.*

15 i. Defendant violated §1692d of the FDCPA by engaging in conduct the natural

16 consequence of which is to harass, oppress, or abuse the Plaintiff.

17 ii. Defendant violated §1692d(5) of the FDCPA by causing a telephone ring with the

18 intent to annoy, abuse, and harass Plaintiff.

19 **WHEREFORE**, Plaintiff demands judgment for damages against PGE for actual, statutory, and

20 attorney's fees pursuant to §1788.30(b) and costs, pursuant to §1788.30(c).

21 **DEMAND FOR TRIAL BY JURY**

22 Plaintiff hereby demands a trial by jury of all issues so triable as a matter of law.

23 Respectfully submitted this 2nd of July, 2015

1 ELIAS STAVRINIDES
2 150 Raley Town Center Ste 2512
Rohnert Park, California [94928]
707-318-9929
3 ronc2009@gmail.com

4 **VERIFICATION**
5

6 **Declarations of ELIAS STAVRINIDES**
7

8 I, ELIAS STAVRINIDES declare as follows:
9

10 1. I am the Plaintiff in the above entitled matter.
11
2. I am of age, sound of mind and competent to testify to facts based on first
hand knowledge of above items so stated.
12
3. I have been damaged financially, socially and emotionally as a result of
Defendant's unlawful actions and conduct.
13
4. I have read the foregoing pleading and know the facts therein stated to be
true and correct.
14
5. I declare, under penalty of perjury pursuant to the laws of California and the
United States, that the foregoing is true and correct to the best of my
knowledge, information and belief.

22
23
24 ELIAS STAVRINIDES, Declarant
25
26
27
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